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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,054	07/09/2003	Donald M. Justus	2003-IP-010088	9523
7590	01/17/2006		EXAMINER	
Robert A. Kent Halliburton Energy Services 2600 South 2nd Street Duncan, OK 73536			STEPHENSON, DANIEL P	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/616,054	JUSTUS ET AL.	
	Examiner	Art Unit	
	Daniel P. Stephenson	3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 October 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-16 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 09 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 3-6, 8-10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman et al. in view of Chen et al., Arribau and Cedillo et al. Norman et al. (Fig. 1 and 2, col. 3 and 4) discloses a method of fracturing a subterranean formation. The method includes the steps of: injecting a fracture fluid (10) into a T-junction or mixing device (col. 4 lines 42 and 43); injecting a controlled amount of a sand suspension (20) into the T-junction or mixing device; and discharging (16) a mixture of the sand suspension and fracture fluid from a centrifugal pump having a certain concentration. The concentration of the mixture is monitored. The amount of the sand suspension being injected into the mixing device is varied with a metering device until a desired concentration of the mixture is attained. The fracture fluid can be water with a gelling agent. The sand suspension can be a mixture of ~60 lb./gal of xanthan (col. 4 line 66) with anywhere from 0-26 lb./gal of sand (col. 4 line 34). The sand suspension will have water in the mixture. In an alternate embodiment the streams of the fracture fluid and particulate slurry flow through pressurizing pumps before getting to the T-junction or mixing device. The pump (14, 112, 122) is disclosed as a specific triplex pump, but it is stated that any other suitable pump can

be used (col. 4 lines 53-56), such as a positive displacement pump. Norman et al. does not specifically disclose that the metering device (22) is a pinch valve, nor is it specifically disclosed that the formation being fractured is one in which the oil has been recovered. In addition, it is not disclosed that the mixing device is a centrifugal pump. Also it is not disclosed that the pinch valve, pumps, flow meter and densiometer are controlled through the use of a microprocessor and LAN, that compare the concentration of the mixture being discharged to a desired concentration of the mixture.

Chen et al. (col. 10 lines 53-60) discloses using a pinch valve with particulate slurries that are being pumped. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pinch valve of Chen on the apparatus of Norman et al. This would be done to allow the conduit to be fully opened as taught by Chen et al.

Arribau discloses a blender that is used in mixing fracture fluids. The blender is made of a centrifugal pump. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the blender of Arribau instead of the T-junction of Norman et al. in view of Chen et al. This would be done to provide more efficient mixing of the fracture fluid ands the sand suspension.

Cedillo et al. discloses using computer control to control the density of a well fracturing slurry. It uses a number of valves, pumps, flow meters and densiometers, that are all computer controlled. This control comes in the form of a feedback loop to achieve a desired concentration after being discharged from a mixing device. The system would use a local area network cable to communicate among the devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the computer control of Cedillo et al. with the

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apparatus of Norman et al. in view of Chen et al. and Arribau. This would be done so that all the mechanisms could be controlled from one location and allow the user readouts of the current status of the apparatus.

It is officially noticed that it is common practice in the art to stimulate a formation in which the oil has been removed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the apparatus of Norman et al. in view of Chen et al., Arribau and Cedillo et al. to fracture a formation in which the oil has been recovered.

4. Claims 2, 7, 11, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman et al. in view of Chen et al., Arribau, Cedillo et al. and Samuel et al. Norman et al. in view of Chen et al., Arribau and Cedillo et al. shows all the limitations of the claimed invention, except, it does not disclose that there is a fluid additive injected into the mixing centrifugal pump. Samuel et al. discloses passing a multitude of streams into a mixing area then pumping the fracturing mixture downhole. These streams include a liquid additive that can be a breaker fluid. After the mixture is mixed it passes into a pump that injects it into the formation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the additive stream of Samuel et al. with the apparatus of Norman et al. in view of Chen et al., Arribau and Cedillo et al. This would be done so that a breaker fluid could be introduced when fracturing was complete.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson et al. shows similar elements to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Stephenson whose telephone number is (571) 272-7035. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Bagnell
Supervisory Patent Examiner
Art Unit 3672

DPS 